



Klarquist Sparkman, LLP
121 SW Salmon Street
Suite 1600
Portland, OR 97204

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DECISION

In re Application of
El Haj et al.
Application No. 10/518,956
PCT No. PCT/GB03/02624
Int Filing Date: 19 June 2003
Priority Date: 19 June 2002
Atty. Docket No.: 5585-69998-01
For Method of Magnetically
Manipulating A Cell With
Magnetizable Particles

This is in response to the petition under 37 CFR 1.182 filed on 15 August 2005.

BACKGROUND

This international application was filed on 19 June 2003, designated the United States, and claimed an earliest priority date of 19 June 2002. The International Bureau transmitted a copy of the published international application to the USPTO on 31 December 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 19 December 2004. Applicants filed *inter alia* the basic national fee on 17 December 2004.

On 01 August 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497 (a) and (b).

On 10 August 2005, applicants filed a response, including a declaration. The instant petition was filed on 15 August 2005.

On 12 January 2006, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants.

DISCUSSION

Counsel requests correction of "the name of co-applicant Jon Paul Dobson because in the international application (No. PCT/GB2003/002624) his first and middle names were reversed, and his surname was misspelled as Dubson instead of Dobson." Inspection of the application file reveals that the inventor's name as it appears in the published international application is "DUBSON, Jon, Paul," whereas the name appearing in the executed declaration filed on 10 August 2005 is "Jon Paul Dobson." As such, the only discrepancy in the name is the spelling of the surname; no discrepancy appears in the ordering of the names. Insofar as this discrepancy represents a mere typographic error, no petition under 37 CFR 1.182 is required to resolve the issue of Mr. Dobson's name. Rather, the spelling as "Dobson" is acceptable on the basis of counsel's assertion that "his surname was misspelled as Dubson instead of Dobson." However,

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the declaration is defective because of a discrepancy in the name of the other joint inventor, whose name is listed on the published international application as "EL HAJ, Jennifer, Alicia," whereas the corresponding name appearing in the declaration is "Alicia Jennifer Haj." There are two discrepancies: the deletion of "El" from the surname "El Haj," and the reversal of the order of the names from "Jennifer Alicia" to "Alicia Jennifer." To resolve these discrepancies, counsel is required to either submit a new declaration correctly naming the entire, correct inventive entity, or else file a submission including a statement of typographic error and/or a grantable petition under 37 CFR 1.182 in the event that the discrepancies present represent more than a mere typographic error or phonetic misspelling of applicant's name. See MPEP § 605.04(b) and MPEP § 201.03(b)

CONCLUSION

The declaration filed on 10 August 2005 is NOT ACCEPTED, without prejudice.

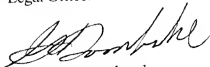
The requirements of 35 U.S.C. 371(c)(4) have not been met in that no oath or declaration in compliance with 37 CFR 1.497(a) and (b) has yet been filed. Accordingly, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 12 January 2006 is hereby VACATED.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in ABANDONMENT of this application.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



Richard Cote
PCT Legal Examiner
Office of PCT Legal Administration



George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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